

A BILL

To amend title 10, United States Code, to exempt certain contracts with foreign contractors from the requirement for an examination-of-records clause.

1           Be it enacted by the Senate and House of Representatives  
2           of the United States of America in Congress assembled, That  
3           chapter 137 of title 10, United States Code, is amended as  
4           follows:

5                   (1) Section 2310(b) is amended--

6                           (A) by striking out the words "or section 2307(c)"  
7                           and inserting the words "section 2307(c), or section  
8                           2313(c)" in place thereof; and

9                           (B) by striking out the words "or (4)" and  
10                           inserting the words "(4) clearly indicate why the  
11                           application of section 2313(b) to a contract  
12                           or subcontract with a foreign contractor or foreign  
13                           subcontractor would not be in the public interest,  
14                           or (5)".

15                   (2) Section 2313 is amended--

16                           (A) by striking out the word "Each" in sub-  
17                           section (b) and inserting the words "Except as pro-  
18                           vided in subsection (c), each" in place thereof; and

19                           (B) by adding the following new subsection at  
20                           the end thereof:

1                   "(c) Subsection (b) does not apply to a  
2                   contract or subcontract with a foreign contractor  
3                   or foreign subcontractor if the head of the  
4                   agency determines, with the concurrence of the  
5                   Comptroller General or his designee, that the  
6                   application of that subsection to the contract  
7                   or subcontract would not be in the public interest.  
8                   However, the concurrence of the Comptroller General  
9                   or his designee is not required where the contractor  
10                  or subcontractor (1) is a foreign government or  
11                  agency thereof; or (2) is precluded by the laws of  
12                  the country involved from making its books, documents,  
13                  papers, or records available for examination."

14               SEC. 2. Section 304(c) of the Federal Property and  
15               Administrative Services Act of 1949, as added by the Act of  
16               October 31, 1951, ch. 652 (41 U.S.C. 254(c)), is amended  
17               by adding the following new sentences at the end thereof:

18               "Under regulations to be prescribed by the Administrator,  
19               however, such clause may be omitted from contracts with  
20               foreign contractors or foreign subcontractors if the  
21               agency head determines, with the concurrence of the  
22               Comptroller General of the United States or his designee,

1       that the omission will serve the best interests  
2       of the United States. However, the concurrence of the  
3       Comptroller General of the United States or his  
4       designee is not required for the omission of such  
5       clause where the contractor or subcontractor (1) is  
6       a foreign government or agency thereof; or (2) is  
7       precluded by the laws of the country involved from  
8       making its books, documents, papers, or records  
9       available for examination. The power of the agency  
10      head to make the determination specified in the  
11      preceding sentences shall not be delegable."

12      SEC. 3. Section 3(b) of the Act of August 28, 1958  
13      (50 U.S.C. 1433(b)) is amended by adding the following new  
14      sentences at the end thereof:

15      "Under regulations to be prescribed by the President,  
16      however, such clause may be omitted from contracts  
17      with foreign contractors or foreign subcontractors if  
18      the agency head determines, with the concurrence of  
19      the Comptroller General of the United States or his  
20      designee, that the omission will serve the best  
21      interests of the United States. However, the concurrence  
22      of the Comptroller General of the United States or his  
23      designee is not required for the omission of such clause  
24      where the contractor or subcontractor (1) is a foreign

- 1 government or agency thereof; or (2) is precluded by
- 2 the laws of the country involved from making its books,
- 3 documents, papers, or records available for examination.